IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

Bail Appl..No. 6661 of 2007()

CRMA.2098/2007 of I ADDL. DISTRICT COURT, TRIVANDRUM
CRIME NO.533/2007 OF PEROORKADA POLICE STATION

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: PETITIONERS/ACCUSED 1,2 & 4

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1. AJEESH, S/O.K.R.RAJAPPAN,
   T.C.20/70, VRINDAVAN GARDEN, KOKKODE,
   KOWDIAR P.O., THIRUVANANTHAPURAM.

2. VINOD, S/O.KARUNAKARAN,
   AMBAZHAMKODU, PUTHUCHI, KUDAPPANAKUNNU P.O.

3. SHAJI, S/O.SUKUMARAN NAIR,
   AKKARAVILA PUTHEN VEEDU, N.C.C.ROAD,
   PEROORKADA P.O.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6661 of 2007

Dated this the 6th day of November 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1,2 and 4. They face allegations for offences punishable inter alia under Section 452 I.P.C and Section 27 of the Arms Act. The crux of the allegations is that the accused persons, four in number, went to the house of the de facto complainant demanding repayment of a loan availed by him for which the third accused, an employee of a public sector undertaking had arranged a surety. The third accused was not the surety himself. He had arranged a colleague of his to stand surety for the loan availed by the wife of the de facto complainant. The accused persons went to the scene of the crime armed with dangerous weapons. The de facto complainant was threatened and intimidated. Damage was caused to the house of the de facto complainant. The alleged incident had taken place on 20/9/2007. Investigation is in progress. The petitioners apprehend imminent arrest. The third accused has already been arrested and enlarged on bail. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They may now be granted anticipatory bail, it is prayed.

2. The application is opposed by the learned Public

Prosecutor. Sufficient data have been collected to indicate the complicity of the petitioners. There is absolutely no justification in the prayer of anticipatory bail. Damage suffered by the building is clearly indicated in the scene mahazer. This petition may, in these circumstances, be dismissed with directions to the petitioners to surrender before the investigating officer or the learned Magistrate and then seek regular bail.

3. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

4. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007